

Patent  
700603.3REMARKS

Applicants wish to thank the Examiner for the courtesy extended in the interview of March 24, 2004. Applicants submit the foregoing claim amendment to clarify that the stably integrated transgene that is incorporated into the genome of the chicken embryonic stem cell progeny used to create a chimera is actually expressed in several tissue types. As noted previously, the present application discloses the first example of a live, hatched chimeric chicken carrying embryonic stem cell progeny with a stably integrated transgene.

The prior art reference cited in the previous office action, the Pain et al. paper, Development 122, 2339-2348 (1996) merely describes chimeric chickens developed from embryonic stem cells maintained in culture for a maximum period of 19 days. The Pain et al. (1996) paper does not disclose any cultures yielding chimerism beyond 19 days, does not disclose any transformation of embryonic stem cells in culture with a stably integrated transgene, and does not disclose the use of the transformed embryonic stem cells to create a chimeric chicken. The attached declaration of Dr. Robert Etches, one co-author of the Pain et al. paper, is provided to establish these facts and to provide the basis upon which a conclusion of non-obviousness of the claimed subject matter is reached.

Applicants submit that the application is in condition for allowance and request such action accordingly.

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The Commissioner is authorized to charge Orrick, Herrington & Sutcliffe's Deposit Account for any fees that may have been overlooked and to credit any overpayments to said Deposit Account No. 150665.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: April 28, 2004

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